

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Higginbotham	Team: Team # 8	CCRB Case #: 200704382	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/09/2007 4:25 PM	Location of Incident: § 87(2)(b) 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 9/9/2008	EO SOL 9/9/2008	
Date/Time CV Reported Thu, 03/29/2007 1:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/29/2007 1:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vincent Tiernan	21213	935846	073 PCT
2. POM Timothy Schultz	10651	934158	073 PCT
3. Officers			
4. An officer			
5. POM Angel Delgado	01388	930022	073 PCT
6. SGT Brian Mcmenamin	93070	930709	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Justin Caballero	30884	932392	073 PCT
2. POM Il Baik	23944	934442	073 PCT
3. POM Lesly Lafontant	02397	921480	073 PCT
4. POF Vanessa Radziewicz	19130	935555	073 PCT
5. LT Edward Schneider	00000	902952	073 PCT
6. SGT Stephen Rinaldi	05022	923035	073 PCT
7. SGT Randal Mercier	02820	911329	073 PCT
8. POM John Luizzi	06123	925642	073 PCT
9. POM Richard Lavelle	02384	931783	073 PCT
10. POM Teng Luo	05924	935217	073 PCT
11. POM Anthony Nieves	16723	895785	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Timothy Schultz	Force: PO Timothy Schultz used physical force against § 87(2)(b)	
B.POM Vincent Tiernan	Force: PO Vincent Tiernan used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.SGT Brian Mcmenamin	Force: Sgt. Brian Mcmenamin struck § 87(2)(b) with an asp.	
E.POM Angel Delgado	Force: PO Angel Delgado used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	
G. An officer	Force: An officer struck § 87(2)(b) with a radio.	
H. An officer	Force: An officer used physical force against § 87(2)(b)	
I. An officer	Force: An officer struck § 87(2)(b) with an asp or baton.	
J. Officers	Force: Officers used physical force against § 87(2)(b)	
K. An officer	Force: An officer used a chokehold against § 87(2)(b)	
L. Officers	Force: Officers struck § 87(2)(b) with asps or batons.	
M. Officers	Force: Officers used physical force against § 87(2)(b)	
N. An officer	Force: An officer used physical force against § 87(2)(b)	

## Synopsis

On March 9, 2007, around 4:30 PM, § 87(2)(b) was stopped by two officers, who were later identified as PO Timothy Schultz and PO Vincent Tiernan from the 73<sup>rd</sup> precinct, for smoking a cigarette inside the lobby of § 87(2)(b) in Brooklyn. PO Schultz and PO Tiernan pushed § 87(2)(b) against the wall (Allegation A) and handcuffed him. § 87(2)(b) began to call out to his mother, who lived in a nearby apartment that adjoins the lobby of § 87(2)(b). § 87(2)(b)'s mother, § 87(2)(b) exited the apartment accompanied by § 87(2)(b)'s brother, and began to question the officers as to what they were doing. The officers called for additional units and more officers arrived in the building. PO Tiernan pushed § 87(2)(b) to the ground and officers began to punch and kick him (Allegation B, C).

Five to six officers, including Sgt. Brian McMenamin and PO Angel Delgado from the 73<sup>rd</sup> Precinct, struck § 87(2)(b) with asps and a radio, and also punched and kicked him (Allegation D, E, F and G). He fell to the ground, and when § 87(2)(b) approached § 87(2)(b) an officer punched her in the shoulder, causing her to fall to the ground (Allegation H).

§ 87(2)(b)'s sons § 87(2)(b) and § 87(2)(b) arrived in the lobby and saw officers interacting with their mother and brothers. § 87(2)(b) approached his mother and an officer struck him once with a baton (Allegation I). § 87(2)(b) approached his mother and officers punched him and struck him with batons (Allegation J). After he fell to the ground, an officer pressed his asp or baton against § 87(2)(b)'s throat and restricting his breathing (Allegation K).

When § 87(2)(b) a friend of the § 87(2)(b)'s who was visiting them at the time of the incident, saw § 87(2)(b) on the ground he approached her to help her up. Officers began to strike him with asps or batons (Allegation L). They punched and kicked him as well (Allegation M).

§ 87(2)(b) and § 87(2)(b) were arrested, as was § 87(2)(b). At the stationhouse, an officer struck § 87(2)(b) in the testicles multiple times (Allegation N.)

§ 87(2)(g)  
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§ 87(2)(g)

## Summary of Complaint

On § 87(2)(b), § 87(2)(b) and § 87(2)(b) and § 87(2)(b) filed notices of claim against the City of New York with regards to their respective arrests on March 9, 2007 (encls. 13a-b, 16a-b, 19a-b, 22a-b, 25a-b, 28a-b). The notices of claim were received by the City of New York Comptroller's Office on § 87(2)(b). The six notices of claim were identical in content. None of the § 87(2)(b) alleged any physical injury as a result of their arrests. Instead they claimed to have been falsely arrested and claimed damages with regards to court fees, lost time from work and damage to each of their reputations. The monetary amount of the claim was unspecified.

On March 29, 2007, § 87(2)(b) an attorney representing the § 87(2)(b) in their civil suit, called the CCRB to make a complaint regarding the misconduct of a New York City police officer on behalf of his clients, the § 87(2)(b) family and § 87(2)(b) (encl. 12a-d). He did not witness the alleged misconduct. He reported that on March 9, 2007 at approximately 4:00 PM, § 87(2)(b) walked out of § 87(2)(b) with a lit cigarette. Officers Tiernan and Schultz were walking into the building and stopped § 87(2)(b). As they were handcuffing him, § 87(2)(b) yelled out to his mother, § 87(2)(b). § 87(2)(b) came outside and asked the officers what he was being arrested for. The officers did not respond so § 87(2)(b) asked for their names and shield numbers. The officers did not tell her and turned away to hide their shields. As they turned away one of the officers called for backup. § 87(2)(b) opened the lobby door for the responding officers. As he turned around to walk back inside one of the officers hit him over the head with a nightstick and he fell to the ground. At one point, § 87(2)(b) attempted to help § 87(2)(b) up and the officers beat him as well. § 87(2)(b) her four sons, and § 87(2)(b) were all arrested. § 87(2)(b) suffered injuries to her back and shoulder. All arrested received treatment at § 87(2)(b).

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (14a-c). On § 87(2)(a), § 87(2)(b) testified at a 50H Hearing in regards to his arrest on March 9, 2007 (encl.15a-aaa). § 87(2)(b) is an § 87(2)(b) black male with brown hair and brown eyes. He is 5'4" and weighs 115 pounds. § 87(2)(b)'s attorney, § 87(2)(b) was present during the interview. § 87(2)(g)

On March 9, 2007, § 87(2)(b) left his apartment inside § 87(2)(b) in Brooklyn and lit a cigarette inside the lobby of the building. Two uniformed police officers were standing outside § 87(2)(b) in Brooklyn, where § 87(2)(b) lives. PO1, identified by the CCRB as PO Timothy Schultz from the 73<sup>rd</sup> Precinct, was a blond, white male who was about six feet tall with a medium build. He had no facial hair and no glasses. He appeared to be in his late 20s or early 30s. PO2, identified by the CCRB as PO Vincent Tiernan from the 73<sup>rd</sup> Precinct was a white male with black hair and was shorter than PO Schultz. § 87(2)(b) opened the door to let them in, because the doors to his building lock automatically. PO Schultz entered the building, smacked § 87(2)(b)'s hand so that he dropped his cigarette, and said, "What are you doing smoking in the building?" § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) PO Tiernan "swung" at § 87(2)(b)'s face as if to punch him, but did not actually hit him. § 87(2)(a) Gen.Mun. §50-H(3)

The officers asked § 87(2)(b) where his ID was in order to issue him a summons, and he told the officers he lived in the building. § 87(2)(b) told the CCRB that he called for his mother in order to identify himself. § 87(2)(b)'s apartment is about two doors away from where he was stopped in the lobby. § 87(2)(b)'s mother § 87(2)(b) and one of his brothers, § 87(2)(b) came out of the apartment. § 87(2)(b) began to ask why § 87(2)(b) was being arrested, and she asked for PO Schultz's badge number. PO Schultz covered his badge with his hand and said, "You're going to get it in a minute." PO Schultz then called for additional officers. Almost immediately, more officers arrived at the front of § 87(2)(b). § 87(2)(b) could not recall how many officers arrived after PO Schultz called for additional units, only stating that there were "a lot of them."

§ 87(2)(b) went to the front door of the building and opened the front door of the building so that the officers outside could enter the building. When he turned around to walk back into the building, the officers entering behind § 87(2)(b) began to hit him with an expandable stick with a ball at the end of it all over his head and torso. One of the officers was an Asian male, and one was a short white officer with a bald head. § 87(2)(b) did not recall any of the other officers who had been hitting his brother, but they were all uniformed.

§ 87(2)(a) Gen.Mun. §50-H(3)

An unknown officer pushed § 87(2)(b) to the ground, onto his stomach, and officers began to punch and kick him. He also saw his mother fall over. § 87(2)(a) Gen.Mun. §50-H(3)

However, he did not make this allegation to the CCRB. § 87(2)(b) and § 87(2)(b) arrived soon after § 87(2)(b) and § 87(2)(b) and had been in the § 87(2)(b)'s apartment before coming outside into the foyer. Unknown officers picked § 87(2)(b) off the ground and then took him outside the building. The officers began to hit, step on and kick § 87(2)(b) (Allegation C). § 87(2)(b) did not know how long officers were hitting him, and he could not see anything because his hoodie was over his head. § 87(2)(b) told the CCRB that officers put him on the ground with his hoodie over his head inside the lobby of § 87(2)(b) before bringing him outside. § 87(2)(a) Gen.Mun. §50-H(3)

Officers picked him up again and put him in a patrol car. Inside the precinct, officers took pictures of § 87(2)(b)'s injuries. § 87(2)(g)

§ 87(2)(b) stated that when uniformed officers took the pictures of his injuries, he was not certain how the officers determined what parts of his

body were injured. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) went to the hospital the day after he was released from Central Booking, and was diagnosed with a muscle sprain in his back. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) could not provide any physical description of the officers with whom he interacted on March 9, 2007, including descriptions of race or gender, and stated only that all the officers present in § 87(2)(b) were in uniform.

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (encl.17a-c). On § 87(2)(a), § 87(2)(b) testified at a 50H Hearing in regards to her arrest on March 9, 2007 (encl.18a-iii). § 87(2)(b) is a § 87(2)(b) black female with brown eyes and brown hair. She is 5'7" and weighs 130 pounds. § 87(2)(b)'s attorney, was also present during the interview. § 87(2)(b)

On March 9, 2007, around 4:00 PM, § 87(2)(b) was in her apartment, § 87(2)(b) in § 87(2)(b) in Brooklyn, folding laundry. One of her sons, § 87(2)(b) told her that he was going to the store and left the apartment. Five minutes later, § 87(2)(b) heard § 87(2)(b) yelling and went outside to the foyer area of her apartment building. She saw two white male officers in uniform pushing § 87(2)(b) against a wall. § 87(2)(b) was in handcuffs. § 87(2)(b) began to ask § 87(2)(b) what had happened, but he didn't answer. § 87(2)(b) asked the officers what had happened, and they also did not answer. Three of § 87(2)(b)'s sons, § 87(2)(b) and § 87(2)(b) arrived in the lobby and also began to ask what happened. § 87(2)(b) directed her sons to stand back from the officers and then approached the officers herself. She told them that she was § 87(2)(b) and stated that they were arresting her son, and she wanted to know what had happened. PO1, later identified as PO Schultz, looked at her "with disdain" and ignored her. § 87(2)(b) stated that she could not recall what PO Schultz or an officer later identified as PO Tiernan looked like, aside from the fact that they were white males. § 87(2)(b) asked the officers for their names and badge numbers. Both PO Schultz and PO Tiernan turned their bodies in order to hide their shields. PO Schultz said, "You're going to get it in a minute." He then called for additional units to come to the building.

A group of officers arrived in front of second door of the building and § 87(2)(b) went to the door to let them inside the building. He opened the door and turned to return inside the building. Officers began to beat him repeatedly with asps about the head. § 87(2)(b) was knocked down by officers multiple times after approaching and asking what the officers were doing. She did not recall which officers were responsible for knocking her over, or exactly how officers knocked her over. She only remembered falling repeatedly. § 87(2)(b) got up and approached § 87(2)(b) because he was lying facedown on the floor. An officer who was standing nearby saw her do so and punched her in the front part of her right shoulder, knocking her down (Allegation H). The officer who punched her was a tall white officer in uniform with dark hair.

She fell back and decided that because she had been knocked down so many times, she would remain on the ground until the officers left. She saw that officers were hitting her sons with asps, but no officers were interacting with § 87(2)(b) while she was on the ground. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) a family friend who was visiting the § 87(2)(b) at the time of the incident, also exited the apartment and attempted to help § 87(2)(b) up. Officers said, "Oh,

you're going down too," and began to hit him with asps as well. § 87(2)(a) Gen.Mun. §50-H(3)

A uniformed white female officer, identified by the CCRB as PO Vanessa Radziewicz from the 73<sup>rd</sup> Precinct, asked her to get up and then to lie on the floor facedown so that she could be handcuffed.

No officer ever attempted to hit § 87(2)(b) with an asp or baton.

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) did not make any allegations of misconduct that allegedly took place in the 73<sup>rd</sup> Precinct stationhouse on the date of the incident when she made her statement at CCRB.

§ 87(2)(b) received a lumbar sprain and a muscle sprain in her knee as a result of being pushed to the ground multiple times. She was offered medical treatment at Central Booking but waited until the day after she was released to go to the emergency room. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) informed the CCRB that she would be able to recognize the female officer with whom she interacted on March 9, 2007 if she saw the female officer again. However, she would not be able to recognize any other officer with whom she interacted if presented with photos.

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (encl. 20a-c). On § 87(2)(a) § 87(2)(b) testified at a 50H Hearing in regards to his arrest on March 9, 2007 (encl. 21a-ii). § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes. He is 5'10" and weighs 230 pounds. § 87(2)(b)'s attorney, § 87(2)(b) was present during his CCRB interview.

On March 9, 2007, around 4:00 PM, § 87(2)(b) was in his home, § 87(2)(b) of § 87(2)(b) in Brooklyn, when he heard screaming from the hall. He went into the lobby of his building. § 87(2)(g)

About five to six officers arrived at the front door of the building, and § 87(2)(b) went to the door to open it and let them inside. After opening the door, § 87(2)(b) turned around and went into the building. The officers began to hit him in the back of his head and on his back. Although § 87(2)(b) could not see what was hitting him, he told the CCRB that "they were using fists, feet, sticks, and it felt like a radio on the back of my head." § 87(2)(b) fell to the ground facedown (Allegation D, E, F, G). He said that it felt as if officers hit him for about three minutes. The officers were saying, "Stop resisting," but § 87(2)(b) had his hands up above his head and kept repeating that he wasn't resisting arrest. § 87(2)(b) was handcuffed and brought to a patrol car, and then the precinct.

Officers took § 87(2)(b) through a back entrance of the precinct. They lined the § 87(2)(b) up face first against a wall, and then tightened all of their handcuffs. When the officers got to § 87(2)(b) they tightened his handcuffs, kicked him and pushed his head against the wall (Allegation F), saying, "Shut up. Don't say nothing." § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) was never taken to the front desk of the precinct, but was taken straight to a holding cell. He was in the holding cell alone. A plainclothes officer in a plaid jacket said to officers, "search all of them." In the holding cell, officers directed § 87(2)(b) to remove all of his clothes except for the sweatpants he had been wearing under his pants. They then placed his handcuffs back on, took pictures of his back and his front, and left him in the holding cell alone unclothed until he was taken to Central Booking. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(a) Gen.Mun. §50-H(3)

A day after his arrest, § 87(2)(b) went to the hospital to be treated for head and back pain.

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2) was unable to provide descriptions of any of the officer with whom he interacted during his arrest and the events leading up to his arrest, including gender, aside from the fact that the officers were white.

§ 87(2)(b) could not provide any physical description of the officers with whom he interacted on March 9, 2007, including descriptions of race or gender.

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (encl.23a-c). On § 87(2)(a), § 87(2)(b) testified at a 50H Hearing in regards to his arrest on March 9, 2007 (encl.24a-gg). § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes. He is 6'0" tall and weighs 155 pounds. § 87(2)(b)'s attorney, § 87(2)(b) was present during his CCRB interview.

On March 9, 2007, § 87(2)(b) heard his mother in the hallway, and went outside to the foyer area of § 87(2)(b) § 87(2)(g)

Multiple officers arrived in front of the building, and § 87(2)(b) went to the door and opened it to allow the officers inside. § 87(2) was closest to the door, although he was not interacting with PO Schultz or PO Tiernan. The officers who § 87(2) let into the building pulled out batons and began to hit him with the batons and with their fists. § 87(2) turned around, and the officers hit his back § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) approached the officers and his brother, asking them what had happened. An officer hit him with a baton (Allegation I) and § 87(2)(b) backed away. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) saw § 87(2)(b) fall after officers ran into the lobby and pushed her down. § 87(2)(b) attempted to help her off the ground, and an officer began to hit him with their fists all over his back (Allegation N). § 87(2)(a) Gen.Mun. §50-H(3)

The vestibule area is about four feet by ten feet. § 87(2)(b) was able to see § 87(2) being hit with batons, fists and feet. He also saw a radio swing at § 87(2) and hit him. § 87(2)(b) did not know what any of the officers who were hitting § 87(2) looked like. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) was handcuffed and brought to the 73<sup>rd</sup> Precinct stationhouse.

The officers brought the § 87(2)(b) to the front part of the precinct, where all the bulletin boards are, and stood them up by the wall. A short white officer in uniform with a bald head hit § 87(2)(b) in his testicles repeatedly, and slammed his head against the wall (Allegation N). § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) was not taken to the front desk, and was brought to the holding cells immediately, in handcuffs. § 87(2)(b) heard a male voice say, "Strip them all and leave them in the cells." Two officers came into the holding cell and removed § 87(2)(b)'s handcuffs, directing him to remove all of his clothing except for his boxers. § 87(2)(b)

§ 87(2)(b) did not recall which officers asked him to strip. The officers also took Polaroid pictures of his front and back, handcuffed him and left him in the holding cell in his underwear for ten to fifteen minutes. An unknown officer gave him his hooded sweatshirt after he complained that he was cold.

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) did not have any injuries as a result of his arrest.

§ 87(2)(b) could not give provide physical descriptions of the officers with whom he interacted on March 9, 2007, aside from stating that they were all white males.

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (encl.26a-c). On § 87(2)(a) § 87(2)(b) testified at a 50H Hearing in regards to his arrest on March 9, 2007 (encl.27a-ee). § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes. He is 5'10" and weighs 140 pounds. § 87(2)(b) § 87(2)(b)'s attorney, was also present during his CCRB interview.

On March 9, 2007, § 87(2)(b) was in § 87(2)(b) of § 87(2)(b) when he heard his brother, § 87(2)(b) screaming in the hallway. § 87(2)(b) left his apartment and entered the lobby. § 87(2)(g)

Unidentified officers immediately began to hit § 87(2)(b) in the back of the head with asps as he walked back into the building after opening the door for him. § 87(2)(b) and his mother approached the officers, asking what they were doing. § 87(2)(b) had his hands up and palm facing out when he approached. § 87(2)(b) was pushed down and an officer kicked her. Officers began to hit § 87(2)(b) with batons and their fists and he fell onto the ground, on his back (Allegation J). An officer, PO1, put a knee on § 87(2)(b)'s chest and leaned on it, pinning him to the floor. Another officer, PO2, who was positioned above § 87(2)(b)'s head, put his asp across § 87(2)(b)'s neck, pressing down and restricting § 87(2)(b)'s breathing (Allegation K). § 87(2)(a) Gen.Mun. §50-H(3)

More officers began to arrive. PO1 and PO2 turned § 87(2)(b) over and handcuffed him. Another officer punched § 87(2)(b) in the face while he was facedown on the ground. § 87(2)(a) Gen.Mun. §50-H(3)

The officers picked up § 87(2)(b) and brought him outside. There were about fifteen officers standing between the two glass doors in front of the foyer, and when § 87(2)(b) walked between the two doors, officers jabbed him with their asps in his stomach (Allegation J).

In the precinct, officers had the § 87(2)(b) stand in a line, and then go to separate holding cells. An unknown officer took § 87(2)(b)'s shoes and socks off and left him in the holding cell alone. He was handcuffed the entire time he was in the holding cell, until he was taken to Central Booking. A male Asian officer in uniform fingerprinted § 87(2)(b)

§ 87(2)(b) sustained a laceration and swelling to his left elbow, but is not exactly sure how this happened. He went to the hospital after being released from Central Booking.

§ 87(2)(b) had completed his CCRB statement when his lawyer began to prompt him on April 10, 2007. At the end of § 87(2)(b)'s interview, § 87(2)(b) asked him if officers had ever taken pictures of him. He said that they had. § 87(2)(b) asked what § 87(2)(b) was wearing when pictures were taken of him, and he replied that he was wearing nothing except his underwear and his socks. The officers who took pictures of § 87(2)(b) took pictures of his side and his front. § 87(2)(b) asked whether the officers explained why they were taking pictures, and § 87(2)(b) stated that they did not. The officers returned his clothes immediately, but did not return his shoes.

§ 87(2)(a) Gen.Mun. §50-H(3)



§ 87(2)(b) could not provide any physical description of the officers with whom he interacted on March 9, 2007, including descriptions of race or gender.

§ 87(2)(b)

On April 10, 2007, the CCRB interviewed § 87(2)(b) (encl.29a-c). On § 87(2)(a) § 87(2)(b) testified at a 50H Hearing in regards to his arrest on March 9, 2007 (encl.30a-tt) § 87(2)(b) is a § 87(2)(b) black male with black hair and brown eyes. He is 5'11" and weighs 175 pounds. § 87(2)(b)'s attorney, § 87(2)(b) was also present during his CCRB interview.

On March 9, 2007, § 87(2)(b) was visiting his friends, the § 87(2)(b) at their apartment at § 87(2)(b) § 87(2)(b) in Brooklyn. He heard talking in the hallway and looked outside. He saw § 87(2)(b) talking with officers in the foyer of the building. He went back inside the apartment. Less than fifteen minutes later, he heard screaming and looked into the foyer again. § 87(2)(b) saw that about seven officers had § 87(2)(b) in between the two entrance doors to the apartment building, and that they were "beating on him." He saw multiple uniformed officers hitting § 87(2)(b) with batons while she lay on the ground, and § 87(2)(b) approached § 87(2)(b) and attempted to block the blows, getting hit with batons in the process. Officers punched him and kicked him as well (Allegation L, M). Officers put him on the ground. § 87(2)(b) was handcuffed and taken to the stationhouse. The officers placed the § 87(2)(b) and § 87(2)(b) against a wall in the front of the precinct, next to each other. An unknown officer hit his head against the wall and told him to stop talking (Allegation M). He was placed in a holding cell alone. No officers interacted with him while he was in the holding cell. § 87(2)(b) asked for medical treatment and an ambulance came to the precinct. However, § 87(2)(b) changed his mind and told the EMTs that he did not need medical attention. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) had a sore back and a few small lacerations as a result of this incident. § 87(2)(b) stated that he could not give any physical descriptions for the officers he encountered on March 9, 2007, including race and gender. He was unable to recall anything about the interactions of other members of the § 87(2)(b) family with members of NYPD.

### **Results of Investigation**

#### **Officer Statements**

##### **PO Vincent Tiernan: Memo book**

On March 9, 2007, PO Tiernan responded to a call for child neglect at 3:50 PM at § 87(2)(b) at Apartment 407. At 4:00 PM, PO Tiernan arrived at the location. At 4:15 PM, a call for additional units was made. At 5:00 PM, PO Tiernan was at § 87(2)(b) (encl.33a-b).

##### **PO Vincent Tiernan: LOD Statement**

According to the line-of-duty paperwork filed on March 9, 2007 with regards to injuries received in the line of duty on that day (encl.34), PO Tiernan stated, "While responding to a radio run multiple perps did punch and kick me about the back, neck and body, causing pain and swelling."

##### **PO Vincent Tiernan: LOD witness Statement for PO Schultz**

On March 9, 2007, PO Tiernan wrote a witness statement regarding the line-of-duty injury received by PO Schultz on that day (encl.35). He wrote that "at time and place of occurrence, while trying to effect an arrest PO Schultz was punched, kicked and stepped on by multiple perps."

## **PO Vincent Tiernan: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O'Hare from Brooklyn North Investigations Unit questioned PO Vincent Tiernan regarding the arrest of § 87(2)(b) (encl.32a-c). On August 14, 2007, the CCRB interviewed PO Vincent Tiernan (encl.37a-c). PO Tiernan is a § 87(2)(b)-old white male with black hair and blue eyes. He is 6'0" tall and weighs 175 pounds. § 87(2)(g)

On March 9, 2007, PO Tiernan was working with PO Timothy Schultz from 3:00 PM to 11:35 PM in Sector E, G and I. He was in uniform, and in marked RMP 2750.

On March 9, 2007, PO Tiernan and PO Schultz responded to § 87(2)(b) to a call regarding child neglect. § 87(2)(b) is an apartment building, and one must pass through two doors to pass through the front entrance. PO Tiernan and PO Schultz passed through the first door upon arriving at the building, and found that the second door, a glass door, was locked. PO Tiernan saw an individual, later identified as § 87(2)(b) standing inside the lobby of § 87(2)(b) smoking a cigarette inches away from the door. PO Tiernan tapped on the door twice and asked him to let the officers in. He was watching the officers, but did not open the door. PO Tiernan and PO Schultz got a resident to buzz them into the building. PO Tiernan asked for § 87(2)(b)'s identification, intending to give him a summons for smoking inside. § 87(2)(b) replied, "Fuck you." PO Tiernan repeated his request, and § 87(2)(b) said, "Fuck you. I live here." § 87(2)(b) did not provide his identification. PO Tiernan repeated his request, and received the same answer.

PO Tiernan asked § 87(2)(b) to turn around and place his hands behind § 87(2)(b)'s back, and put down his cigarette. He did not comply, and lifted the cigarette to take another drag of it. PO Tiernan and PO Schultz each pulled one of § 87(2)(b)'s arms behind his back, turned him around and moved him towards a nearby wall. § 87(2)(b) used his feet to push off the wall, backwards and moved his arms away from the officer. When he did so, PO Tiernan hit his head on the corner of some nearby mailboxes, receiving a line of duty injury in the form of a large knot on the back of his head. PO Tiernan and PO Schultz grabbed § 87(2)(b)'s arms and brought them behind his back, and as the officers placed him in handcuffs he began to yell. PO Tiernan and PO Schultz succeeded in handcuffing § 87(2)(b).

A large group of people came into the hallway for a nearby apartment. Other residents of the building also entered the lobby at this time. About fifteen family members and residents of the building approached § 87(2)(b) and the officers, cornering them inside the lobby, in a small alcove to the left of the second front door. PO Schultz called for additional units. The civilians were saying, "You're not taking him." When the officers attempted to move through the crowd, the civilians grabbed the officers and threw them onto the ground, punching, kicking and stepping on the officers. PO Tiernan again called for additional units. Because PO Tiernan never let go of the chain of § 87(2)(b)'s handcuffs, § 87(2)(b) fell to the ground when PO Tiernan did. PO Tiernan was unsure how long he was being hit by civilians, but was holding § 87(2)(b)'s handcuffs the whole time. When asked which civilians were responsible for grabbing him and putting him down on the ground, PO Tiernan stated that he did not know which civilians were responsible for hitting him. At some point, a civilian attempted to step on PO Tiernan's hand. Although he moved his hand, the civilian stepped on his pinky finger, resulting in swelling, which was a line of duty injury. Other unknown officers arrived about a minute later. PO Tiernan was able to begin to stand up and push away the members of the crowd who approached him, and officers broke through the crowd and helped them do so. PO Tiernan did not see what PO Schultz did in order to stand up and fight off the crowd.

PO Tiernan left § 87(2)(b) with his partner and § 87(2)(b) placed § 87(2)(b) on the ground outside the building, and searched him for weapons. At the point when PO Tiernan left § 87(2)(b) he did not see any other civilians in handcuffs. An unknown officer picked up § 87(2)(b) and brought him to the stationhouse in an unknown patrol car. There were still officers in § 87(2)(b) and more officers were arriving at the location. PO Tiernan did not see what was happening inside § 87(2)(b). PO Tiernan and PO Schultz went immediately back to the stationhouse. They remained at the stationhouse and were very shortly taken to the hospital. Before going to the hospital, PO Tiernan was waiting in the muster room at the stationhouse. However, he saw the six individual who were arrested because he was asked to go to the holding cell area where they were lodged and identify the

individuals who took part in his assault. This was the only time he saw the arrests. All six arrests were fully clothed aside from items that would normally be removed before lodging. He did not know if any of the arrests were strip-searched. He did not see any visible marks or injuries on any of the six arrests, nor did he hear of them complain of pain or injury. PO Tiernan could not recall whether or not the civilians were handcuffed in the holding cells.

The CCRB showed the arrest photos of § 87(2)(b) and § 87(2)(b) as well as § 87(2)(b).

#### **PO Timothy Schultz: Memo book**

On March 9, 2007, at 3:50 PM, PO Schultz responded to a call regarding child abuse or neglect at § 87(2)(b) Apartment 407. At 4:00 PM he arrived at § 87(2)(b). At 4:11 PM he called for additional units to § 87(2)(b). At 4:30 PM he arrived at § 87(2)(b) (encl.38a-b).

#### **PO Timothy Schultz: LOD Report**

According to the line-of-duty paperwork filed on March 9, 2007 with regards to injuries received in the line of duty on that day, PO Schultz stated, “while responding to a radio run at § 87(2)(b) six perps did attack me punching and kicking, causing contusions and pain and swelling to the right shoulder and right hand (encl.39).

#### **PO Timothy Schultz: LOD Witness Statement for PO Tiernan**

On March 9, 2007, PO Schultz wrote a witness statement regarding the line-of-duty injury received by PO Tiernan on that day (encl.40). He wrote that “while attempting to effect a lawful arrest, PO Tiernan was shoved, kicked and punched by multiple perps.”

#### **PO Timothy Schultz: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O’Hare from Brooklyn North Investigations Unit questioned PO Schultz regarding the arrest of § 87(2)(b) (encl.32a-c). On September 21, 2007, the CCRB interviewed PO Timothy Schultz (encl.42a-b). On March 9, 2007, PO Schultz was working with PO Vincent Tiernan in uniform. He was in Sector E and was in uniform and in a marked patrol car from 3:00 PM to 11:35 PM. § 87(2)(g)

On March 9, 2007, PO Schultz and PO Tiernan responded to a radio run for child neglect at § 87(2)(b) an apartment building. The officers went inside the building and saw a male standing in the lobby hallway, smoking a cigarette. The lobby hallway is about three feet wide. PO Schultz could not recall whether or not there was one or there were two entrance doors to the apartment building. He was unable to recall if § 87(2)(b) himself opened the door. He could not recall whether the entrance to § 87(2)(b) had been locked, or how the officers entered the building. In his statement to PBBN Investigations Unit, PO Schultz said that § 87(2)(b) opened the door and allowed the officers into § 87(2)(b). PO Tiernan asked the individual, later identified as § 87(2)(b) for identification twice and he refused. In his statement to PBBN Investigations Unit, PO Schultz said that § 87(2)(b) was making statements like, “Fuck you. This isn’t your building,” and “I ain’t giving you shit.” PO Tiernan therefore told § 87(2)(b) that he was going to be placed under arrest. He pushed PO Tiernan backwards, causing him to stumble backwards and hit his head on the wall. PO Schultz believed that PO Tiernan may have also lost his balance and fell after hitting the wall, but was unsure.

PO Schultz attempted to grab § 87(2)(b) to place him in handcuffs and § 87(2)(b) began to fight PO Schultz by punching him. PO Schultz did not state to PBBN Investigations Unit that § 87(2)(b) ever punched him. Instead, he said at that time that § 87(2)(b) resisted arrest by swinging his arms and moving his torso. However, PO Schultz quickly grabbed one of § 87(2)(b) s arms. PO Schultz was able to get one of § 87(2)(b) s arms handcuffed as PO Tiernan got up and grabbed § 87(2)(b) s other arm, bringing it behind his back so the PO Schultz could finish handcuffing § 87(2)(b) § 87(2)(b).

§ 87(2)(b) continued to attempt to move his arms to attempt to prevent the officers from handcuffing him. He was not placed against a wall or put on the ground.

As the officers were in the process of handcuffing § 87(2)(b) a door inside the hallway opened and about five to six males came out into the hallway. The officers successfully handcuffed § 87(2)(b). PO Schultz had not seen the individuals in the hallway previously. They began to make statements such as, "Get the fuck off of him." As soon as PO Schultz saw these individuals, he called for additional units. The individuals surrounded PO Schultz, PO Tiernan and § 87(2)(b). They began to flail their arms and punch and kick the officers, while trying to pull § 87(2)(b) away from the officers. PO Schultz kept a hand on § 87(2)(b) holding him so the crowd couldn't. An unknown individual pushed PO Schultz backwards, causing him to hit his head on the wall, sustaining a contusion to the back of his head. During his statement to PBBN Investigations Unit, PO Schultz stated that § 87(2)(b) pulled at PO Schultz's arm and refused to move back. He also stated that she was yelling and pulling at her son's handcuffs.

PO Schultz had identified the individual who pushed him for the arresting officers on March 9, 2007, and the individual had been charged with § 87(2)(b). However, PO Schultz could not recall who pushed him at the time of his CCRB interview. PO Schultz did not recall falling to the ground, nor did he recall that his partner did so. Additional officers arrived about thirty seconds later. Those officers began to pull the crowd away and push them back to allow PO Schultz and PO Tiernan to move toward the exit of the building with § 87(2)(b). PO Schultz did not recall how many officers arrived and did not recall which officers arrived. He did recall that "a lot" of officers were there. PO Schultz and PO Tiernan were able to push through the lobby and leave the building. The individuals who had been attempting to pull § 87(2)(b) away from the officers did not follow the officers, but remained in the lobby. PO Schultz did not re-enter the lobby or see anyone aside from § 87(2)(b) get arrested. PO Schultz did not recall whether or not he ever took out his asp. He did not recall whether or not PO Tiernan ever took out his asp. PO Schultz did not punch or kick any civilian, nor did he see PO Tiernan do so. PO Schultz did not see any officer strike any civilian with a radio, nor did he do so himself. PO Schultz did not see any officer punch or kick any civilian inside § 87(2)(b).

When PO Schultz and PO Tiernan got outside, they placed § 87(2)(b) in a patrol car. They waited outside and PO Schultz pointed out the individual who had pushed him to an unknown officer. PO Schultz did not re-enter § 87(2)(b). PO Schultz did not help to handcuff any other civilians. PO Schultz and Tiernan went to the stationhouse. At the stationhouse, PO Schultz and PO Tiernan went to the muster room. PO Schultz did not interact with any of the individuals who had been arrested at the stationhouse. He did not recall if he saw any of the six arrests in the holding cell. He did not recall if any of the arrests were strip-searched. He never saw any officer punch any civilian in the crotch area, nor did he see any officer tighten the handcuffs of an arrest that was already handcuff.

The CCRB presented PO Schultz with the arrest photos of the six individuals arrested at § 87(2)(b) but was unable to recognize any of them.

PO Schultz had a contusion to his hand and the back of his head. He was not sure where he got the contusion to his hand.

#### **PO Angel Delgado: Memo book**

At 4:15 PM PO Delgado responded to a call for additional units at § 87(2)(b). At 4:40 PM he went to § 87(2)(b) from the stationhouse (encl.43a-b).

#### **PO Angel Delgado: LOD Report**

According to the line-of-duty paperwork filed on March 9, 2007 with regards to injuries received in the line of duty on that day (encl.44), PO Delgado wrote that "while attempting to effect a lawful arrest defendant did resist and stomped on my left hand causing extreme pain to my left pinky finger."

#### **PO Angel Delgado: LOD Witness Statement for PO Radziewicz**

On March 9, 2007, PO Delgado wrote a witness statement regarding the line-of-duty injury received by PO Radziewicz on that day (encl.45). He wrote that as PO Radziewicz attempted to handcuff an arrestee, she cut her hand with the "glass on the ground."

## **PO Angel Delgado: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O'Hare from Brooklyn North Investigations Unit questioned PO Angel Delgado regarding the arrest of § 87(2)(b) (encl.32a-c). On September 21, 2007, the CCRB interviewed PO Angel Delgado (encl.47a-b). On March 9, 2007, PO Angel Delgado was working from 3:00 PM to 11:35 PM. He was in Sector A with PO McMenamin. He was in uniform and in marked patrol car 2177. § 87(2)(g)

On March 9, 2007, PO Delgado and PO McMenamin responded to a call for additional units at § 87(2)(b) which was called by Sector E. PO Delgado and PO McMenamin entered the front vestibule of § 87(2)(b) which is an apartment building. There is one entrance into the building, with two doors. PO Delgado saw PO Timothy Schultz and PO Vincent Tiernan in the front hallway of § 87(2)(b). PO Schultz and PO Tiernan were standing up and were surrounded by a group of civilians, who were striking the officers and attempting to free an unknown individual, whom the officers were holding. PO Delgado could not see whether the individual was handcuffed. PO Delgado and PO McMenamin did not ever enter the lobby, because as soon as the officers had passed through the first door to the building, an individual who PO Delgado identified by his photo as § 87(2)(b) came from the lobby into the vestibule area, "rushing" PO Delgado and knocking him onto his back on the ground. § 87(2)(b) leaned into PO Delgado's torso with his shoulder. He did not have his hands in front of him. PO Delgado told the PBBN Investigations Unit that § 87(2)(b) "hip-checked" him, knocking him down purposely. As PO Delgado was trying to get up, he put his hands on the ground to leverage himself. § 87(2)(b) stomped on PO Delgado's left hand and broke his pinky finger. PO Delgado was able to get up and he and PO McMenamin put § 87(2)(b) on the ground. Later, PO Delgado said that § 87(2)(b) was not placed on the ground inside the vestibule area and that he had not participated in the handcuffing of § 87(2)(b). § 87(2)(b) was flailing and struggling to stay out of handcuffs. PO McMenamin and PO Delgado escorted § 87(2)(b) outside because there was no room to place him in handcuffs. PO Delgado noted that § 87(2)(b) was swinging his fists at him and PO McMenamin as the officers attempted to escort him outside to be handcuffed, and the PO Delgado may have hit § 87(2)(b) with a closed fist. After the officers got § 87(2)(b) outside, PO Delgado realized that his finger was injured and had no further physical or verbal contact with any civilian. Other officers handcuffed § 87(2)(b). PO Delgado did not see PO McMenamin take out his asp. He did not take out his asp at any point. He did not see PO Schultz and PO Tiernan with their asps out, nor did he see any officer punch or kick any civilian. However, he noted that he had not had much time to observe PO Schultz and Tiernan inside the lobby of § 87(2)(b). He did not see any officer strike § 87(2)(b) with a radio, nor did he do so. PO Delgado did not notice any visible marks or injuries on § 87(2)(b). The extent of PO Delgado's line of duty injuries were his broken finger.

PO Delgado did not see any of the civilians arrested at § 87(2)(b) inside the 73<sup>rd</sup> Precinct stationhouse. He was in the muster room waiting to go to the hospital for the entirety of the time he was at the stationhouse directly after the incident.

PO Delgado could not identify any of the six arrests made at § 87(2)(b) aside from § 87(2)(b) when presented with their arrests photos. However, he told PBBN Investigations that he witnessed § 87(2)(b) jumping on officers' back and yelling inside § 87(2)(b) at some point.

### **Sgt. Brian McMenamin: Memo book**

At 4:15 PM on March 9, 2007, Sgt. McMenamin responded to a call for additional units at § 87(2)(b) § 87(2)(b) called by Sector E, H, I. At 4:30 PM he transported two perpetrators to the 73<sup>rd</sup> Precinct for Sector E, H, I (encl.48a-b).

### **Sgt. Brian McMenamin: LOD Witness Statement for PO Delgado**

On March 9, 2007, Sgt. (then PO) McMenamin wrote a witness statement regarding the line-of-duty injury received by PO Delgado on that day. He wrote "while attempting to make a lawful arrest, the perp did resist causing PO Delgado to fall to the ground at which time perp did stomp on PO Delgado's hand (encl.49).

## **Sgt. Brian McMenamin: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O'Hare from Brooklyn North Investigations Unit questioned PO McMenamin regarding the arrest of § 87(2)(b) (encl.32a-c). On August 29, 2007, the CCRB interviewed Sgt. Brian McMenamin, who is currently assigned to the 115<sup>th</sup> Precinct (encl.50a-c). Sgt. McMenamin is a § 87(2)(b)-old white male with brown hair and brown eyes. He is 6'0" and weighs 190 pounds. § 87(2)(g).

On March 9, 2007, Sgt. McMenamin was a police officer assigned to the 73rd Precinct. He was working with PO Angel Delgado from 3:00 PM to 11:35 PM. He was in Sector A and B, and was in uniform and a marked vehicle 2177.

On March 9, 2007, Sgt. McMenamin responded to a call for additional units at § 87(2)(b). Sgt. McMenamin was unable to recall whether PO Schultz or PO Tiernan made the call, but recalled that at the time he and PO Delgado received the call, they recognized the voice of the officer over the radio. The officers could also hear "commotion" in the background and could therefore tell that something was wrong. Sgt. McMenamin and PO Delgado responded to the location less than a minute after the call came over, and were the first officers to respond to the call.

PO Delgado was the recorder that day and therefore got out of the patrol car before Sgt. McMenamin, who had to park the patrol car. PO Delgado opened the first door of § 87(2)(b) and walked into a five by ten foot vestibule area between the first door of the building and a door that leads into the lobby of § 87(2)(b). The door that leads into the lobby was locked. Sgt. McMenamin was a few seconds behind his partner. As soon as he got into the vestibule area, a large male, later identified as § 87(2)(b) opened the lobby door and rushed into the vestibule from the lobby. Sgt. McMenamin was briefly able to hear and see PO Schultz and PO Tiernan yelling with and fighting physically with about five males. Sgt. McMenamin stated that he believed that § 87(2)(b) was trying to leave the building and the officers stepped in front of him to prevent him from doing so. § 87(2)(b) put his hands in front of him and subsequently ran into and fell on top of PO Delgado, causing the officer to fall over as well as § 87(2)(b). Sgt. McMenamin told him to stay down on the ground, put his hands behind his back and not to move. § 87(2)(b) did not make any statements, but kept trying to stand up. Sgt. McMenamin kept telling § 87(2)(b) to put his hands behind his back and that he was under arrest, but he would not listen.

Sgt. McMenamin was attempting to help his partner by pulling § 87(2)(b) off of him, and also to keep § 87(2)(b) on the ground. PO Delgado was in the process of getting up but could not completely stand up because § 87(2)(b) was partially on top of him. § 87(2)(b) was able to get up despite Sgt. McMenamin's efforts and PO Delgado remained on the ground. § 87(2)(b) began to kick and stomp on PO Delgado's hand, and Sgt. McMenamin took out his asp and struck § 87(2)(b) with the asp two to three times in the torso area in order to prevent § 87(2)(b) from further injuring PO Delgado or from possibly injuring Sgt. McMenamin himself. He continued to instruct § 87(2)(b) to stop resisting. PO Delgado broke his finger as a result of § 87(2)(b) stepping on him. PO Delgado got off the ground and both officers were able to get § 87(2)(b) onto the ground by getting on top of him and pushing him onto the ground. He also became more compliant after being struck with an asp. The officers dragged § 87(2)(b) by his arms outside with the help of unidentified officer who had since arrived, where they felt they physically control him. § 87(2)(b) complied by placing his hands behind his back, and officers handcuffed him and put him into a patrol car. Sgt. McMenamin went back inside § 87(2)(b) and entered the lobby. Sgt. McMenamin did not see any female civilians inside § 87(2)(b). He stated that it looked as if the entire precinct was inside the lobby, but he could not recall specific officers or specific interactions. He saw officers grappling with civilians and saw officers exchanging punch and kicks with civilians who were punching and kicking officers. He saw officers with asps out. He could not recall seeing specific officers take those actions. Sgt. McMenamin realized the situation was claming down. He did not physically interact with any civilians inside the lobby of § 87(2)(b).

Sgt. McMenamin did not know which officer put two arrestees inside his patrol car, but he transported them back to the 73<sup>rd</sup> Precinct stationhouse. Sgt. McMenamin was in the muster room of the precinct with the injured officers, and escorted the injured officers to the hospital after about half an hour. During that half-hour, he remained in the muster room. Before going to the muster room, he saw the arrests at the desks being searched, but did not interact with any of them.

Sgt. McMenamin never punched or kicked § 87(2)(b). He did not believe that PO Delgado did so, stating that he only saw PO Delgado bracing himself in an attempt to get up. He did not see PO Delgado hit § 87(2)(b) or kick him. PO Delgado did not take out his asp. Sgt. McMenamin did not use his radio to strike § 87(2)(b). He did not see PO Delgado or any other officer do so. Sgt. McMenamin was not aware of whether or not any of the individuals arrested were strip-searched. He never saw any officer hit any civilian in the crotch area. He did not hear any civilians complain of pain or physical injuries. He did not see any injuries on § 87(2)(b). He did not see any officer tighten the handcuffs of any civilians.

The CCRB showed Sgt. McMenamin pictures of all six individuals arrested. He identified § 87(2)(b) as the individual he first encountered at § 87(2)(b).

#### **PO Vanessa Radziewicz: Memo book**

On March 9, 2007, PO Radziewicz wrote that at 4:15 PM she responded to a call for additional units at § 87(2)(b). She had a crime arrest from that location. At 4:30 PM she arrived at the stationhouse. At 5:30 PM she went to the hospital. At 11:35 PM PO Radziewicz was end of tour (encl.51a-b).

#### **PO Vanessa Radziewicz: LOD Report**

According to the line-of-duty paperwork filed on March 9, 2007 with regards to injuries received in the line of duty on that day (encl.52), PO Radziewicz wrote, "at time and place of occurrence while attempting to effect a lawful arrest, perp did resist and I cut my hand on glass on the floor."

#### **PO Vanessa Radziewicz: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O'Hare from Brooklyn North Investigations Unit questioned PO Radziewicz regarding the arrest of § 87(2)(b) (encl.32a-c). On June 13, 2007, the CCRB interviewed PO Vanessa Radziewicz (encl.54a-b). PO Radziewicz is a § 87(2)(b)-old white female with brown hair and hazel eyes. She is 5'9" and weighs 140 pounds. § 87(2)(g)

On March 9, 2007, PO Radziewicz was working Robbery Auto with PO Baik from 3:00 PM to 11:35 PM. She was in uniform and in marked patrol car 1283.

On March 9, 2007, PO Radziewicz and PO Baik responded to § 87(2)(b). When the officers arrived, they split up and PO Radziewicz was not aware of what PO Baik was doing after they arrived. PO Radziewicz entered the building, and directly inside the lobby near the entrance to the building, she saw a female later identified as § 87(2)(b) pulling on the arm of an unknown male officer in uniform. PO Radziewicz could not see what the officer was in the process of doing because his back was turned to her, but could tell that it was a male officer in uniform. PO1 moved the arm that § 87(2)(b) was hold backwards towards § 87(2)(b) leading with his elbow, and she fell to the ground. PO1's elbow did not come into contact with § 87(2)(b)'s body. PO Radziewicz approached § 87(2)(b) and pulled her across the floor in order to move her away from others and provide enough room for § 87(2)(b) to be handcuffed. § 87(2)(b) continued to kick at PO1. PO Radziewicz instructed § 87(2)(b) multiple times to put her hands behind her back. She did not comply with those instructions. PO Radziewicz tried to handcuff § 87(2)(b) which was "a struggle," because § 87(2)(b) continued to kick and flail her arms. PO Radziewicz thought that another officer had helped to handcuff § 87(2)(b) but was not sure which officer helped. The extent of the force used to handcuff § 87(2)(b) was pulling her arms behind her back. PO Radziewicz never took her asp out. No officer at § 87(2)(b) took out his or her asp. PO Radziewicz did not see any other civilian get placed in handcuffs, or any civilians who were already in handcuffs. PO Radziewicz did not really notice one civilian or officer in particular inside § 87(2)(b) as she was concerned with handcuffing § 87(2)(b). As soon as she entered the location. She did not see any officer strike any civilian with a closed fist, or kick any civilian. She did not see any civilian get hit with a radio.

PO Radziewicz received a laceration to her left hand from the broken glass on the floor where she was handcuffing § 87(2)(b). PO Radziewicz did not recall seeing the other six arrestees at the stationhouse. Once PO Radziewicz took § 87(2)(b) to the stationhouse, and once § 87(2)(b) was presented at the desk, she went to the muster room where she waited for about an hour before going to the







On March 9, 2007, PO Caballero responded to a call for additional units at § 87(2)(b). He went directly into the building. He did not see where his partner went. There were officers and civilians outside the building struggling. Inside the lobby area of the building, he saw PO Schultz and PO Tiernan struggling with several civilians. There was one individual, who PO Caballero identified from an arrest photo as § 87(2)(b) who was punching and kicking PO Schultz and PO Schultz tried to handcuff him by grabbing his arms. There were other civilians punching and kicking at POs Schultz and Tiernan. Neither PO Schultz nor PO Tiernan had asps out. Neither PO Schultz nor PO Tiernan punched or kicked any civilians. PO Caballero immediately went to help PO Schultz. He pulled § 87(2)(b)'s arms behind his back and PO Schultz was able to handcuff him. There were other units at the scene, but PO Caballero could not recall how many or whom. § 87(2)(b) was jumping on the backs of various officers who were attempting to enact arrests but was not interacting with POs Schultz and Tiernan.

There were multiple civilians punching and kicking all of the officers in the lobby. PO Caballero went to help multiple officers enact arrests. He could not recall which officers he helped, and could not recall which civilians he interacted with. He stated that enough officers were at the scene that he and other officers were able to handcuff civilians by simply pulling their hands behind their back. PO Caballero never took out his asp. He never saw any other officer take out an asp. None of the individuals PO Caballero helped to handcuff were placed on the ground at any point. PO Caballero did not transport any arrests to the stationhouse, but went back to the stationhouse with other officers. He did not present any arrest at the desk.

PO Caballero did not see any officer strike any civilian with a radio.

PO Caballero did not see any visible injuries on any of his arrests. He did not hear any arrests complain of physical pain. No pictures were taken of any of the civilians at the stationhouse. No arrest was strip-searched.

At the 73<sup>rd</sup> Precinct Stationhouse, PO Caballero did not see any officer tighten the handcuffs of any civilian, nor did he do so himself. He did not see any officer strike any civilian in the crotch area, nor did he do so himself.

#### **Sgt. Stephen Rinaldi: Memo book**

According to his memo book, on March 9, 2007, at 4:00 PM Sgt. Rinaldi responded to a call for additional units at § 87(2)(b). At 4:18 PM six people were under arrest. At 4:23 PM, arrived at the 73<sup>rd</sup> Precinct stationhouse. At 12:47 AM, Sgt. Rinaldi was end of tour (encl.71a-b).

#### **Sgt. Stephen Rinaldi: Statement to PBBN Investigations Unit and CCRB Statement**

On March 9, 2007, Sgt. O'Hare from Brooklyn North Investigations Unit questioned Sgt. Rinaldi regarding the arrest of § 87(2)(b) (encl.32a-c). On June 13, 2007, the CCRB interviewed Sgt. Stephen Rinaldi (encl.72a-b). Sgt. Rinaldi is a § 87(2)(b)-old white male with blond hair and blue eyes. He is 5'5" and weighs 155 pounds.

On March 9, 2007, Sgt. Rinaldi was working 2:50 PM to 11:47 PM as the patrol supervisor at the 73<sup>rd</sup> Precinct. His operator was PO Luizzi and he was in uniform, in marked patrol car 1487.

On March 9, 2007, Sgt. Rinaldi responded to a call for additional units from PO Tiernan and PO Schultz, who had responded to a radio run at § 87(2)(b). Sgt. Rinaldi later heard that although PO Tiernan and PO Schultz had been responding to a call from upstairs in § 87(2)(b) they never got upstairs because they were attacked by six individuals in the lobby of the building. He responded to the location. Sgt. Rinaldi stated that upon arriving he saw "six civilians attacking" officers inside the lobby of the building and outside the lobby. When he arrived, there were four officers at the scene in addition to Sgt. Rinaldi and his driver. Sgt. Rinaldi saw one officer attempting to handcuff an unknown civilian as they exited the building. Sgt. Rinaldi could not recall who the other officers at the scene were. Sgt. Rinaldi help the officer he saw exiting the building and struggling with a civilian by helping to put the civilian on the ground and pull his arms behind his back. He did not recall how long it took him and the other officer to handcuff the individual, but stated that the individual was placed in a patrol car and Sgt. Rinaldi then went back inside § 87(2)(b).

The CCRB presented Sgt. Rinaldi with the arrest photos of all six civilians arrested pursuant to the incident at § 87(2)(b). Sgt. Rinaldi stated that he doubted his ability to recognize any of the arrests. Sgt. Rinaldi did not recognize § 87(2)(b) or

§ 87(2)(b) He recognized § 87(2) and § 87(2)(b) but stated that he could not say how § 87(2) and § 87(2)(b) were interacting with officers specifically on March 9, 2007. When asked to characterize officers' interactions with the six individuals at the location, Sgt. Rinaldi stated that "it was a brawl." However, he also stated that officers were attempting to handcuff individuals when he arrived at § 87(2)(b) by putting them on the ground and grabbing their arms to attempt to pull them behind their back. He never saw an officer with an asp out. He never saw any officer hit any of the civilians with a closed fist. Sgt. Rinaldi could not provide a specific number of officers who responded to § 87(2)(b) by the time the arrests had been made. He never saw any officer use an asp to hold any civilian on the ground.

After officers had handcuffed the six arrests, Sgt. Rinaldi went back to the 73<sup>rd</sup> Precinct, where he remained to the end of his tour. He stated that it seemed likely that the six arrests would have been lined up at a wall in the precinct because they could not all be presented at the desk at once. He never saw any officer tightening any of the arrests handcuffs, but also stated that it is procedure to ensure that handcuffs are double-locked and tight enough when an arrest is brought to the stationhouse. None of the arrests were strip-searched. Sgt. Rinaldi could not think of any reason that officers would remove items of clothing from a prisoner and take pictures of the prisoner. Sgt. Rinaldi did not take pictures of any of the six arrestees at the 73<sup>rd</sup> Precinct stationhouse.

#### **PO John Luizzi: CCRB Statement**

On September 21, 2007, the CCRB interviewed PO Luizzi (encl.74a-b). Po Luizzi is a § 87(2)(b) -old white male with brown hair and brown eyes. He is 5'10" and weighs 185 pounds.

On March 9, 2007, PO Luizzi was the sergeant's operator for Sgt. Rinaldi from 3:00 PM to 11:35 PM.. He was in uniform and in a marked patrol car 1487.

PO Luizzi did not have any memo book entries regarding the incident.

On March 9, 2007, PO Luizzi and Sgt. Rinaldi received a call for additional units at § 87(2)(b) while they were in the 73<sup>rd</sup> Precinct stationhouse. They responded to the location and PO Luizzi saw an officer attempting to handcuff an individual on the sidewalk in front of the location. The officers got out of the car. There were two to three marked patrol cars already at the scene. Sgt. Rinaldi went inside § 87(2)(b). There was only one officer and one civilian outside the building. The civilian was a male. PO Luizzi did not recall which officer was attempting to handcuff the civilian, but recalled that the officer was a male officer in uniform. PO1 and Civ1 were rolling around on the sidewalk and the civilian was moving his arms around. PO1 was attempting to pull Civ1's arms together. Everyone else was inside § 87(2)(b). PO Luizzi approached the officer who was outside the location and helped him to handcuff the civilian by pulling his arms behind his back. It took a few seconds to place him in handcuffs. PO Luizzi and the other officers put the arrest in the car. PO Luizzi stayed outside § 87(2)(b) and did not enter the building. He was standing to the south of the entrance, in front of the patrol car with the prisoner, and therefore could not see inside the building. Many officers arrived at the scene, and PO Luizzi did not interact further with any civilians. He did not see any other officers struggling with civilians in front of § 87(2)(b).

PO Luizzi and Sgt. Rinaldi went back to the 73<sup>rd</sup> Precinct stationhouse, where they stayed for a while and then resumed patrol. PO Luizzi saw the six arrests lined up in front of the front desk at the stationhouse, as is procedure. He did not see any visible marks or injuries on any of the arrests. They were all being loud. PO Luizzi never saw any officer punch any of the arrests between the legs. He never saw any officer tighten any of the arrestee's handcuffs, or hit their heads against the wall. Po Luizzi was not aware of whether or not any of the arrests were strip-searched. Po Luizzi never went to the holding cell area while the six arrests were inside the 73<sup>rd</sup> Precinct.

PO Luizzi later heard that the incident started when the officers who called an 85 saw an individual smoking a cigarette and asked him for identification. He refused to provide identification and pushed an officer.

The CCRB presented PO Luizzi with the arrest photographs of the six arrests made at § 87(2)(b) but he did not recognize anyone.

#### **Sgt. Randall Mercier: CCRB Statement**

On September 21, 2007, the CCRB interviewed Sgt. Randall Mercier (encl.75a-b). On March 9, 2007, Sgt. Mercier was the desk sergeant at the 73<sup>rd</sup> Precinct. He was in uniform. Sgt. Mercier did not have any memo book entries regarding the incident.

Sgt. Mercier recalled the six arrests that were made at § 87(2)(b) being brought into the 73<sup>rd</sup> Precinct around the beginning of his tour. He did not recall whether or not they were all brought in at once. He did not recall whether any of the arrests were strip-searched. He stated that if they had been strip-searched, he would have created a notation in the command log to memorialize the search. He did not recall whether any officer asked for authorization to strip search any of the arrests. He did not recall hearing anything about the arrests. Sgt. Mercier did not recall whether or not IAB came to the stationhouse. He did not recall whether or not pictures were taken of the arrests. He did not see any officer tighten the handcuffs of any of the arrests. He did not see any officer hit any of the arrests in the crotch area.

#### **PO Teng Luo: CCRB Statement**

On November 9, 2007, the CCRB interviewed PO Luo (encl.76a-b). PO Luo did not have his memo book with him and stated that it had been "lost or destroyed." PO Luo is a § 87(2)(b)-old Asian male with black hair and brown eyes. He is 5'10" and weighs 205 pounds.

PO Luo normally works 4 x12. He did not recall his partner or assignment, or whether he was in uniform or plainclothes on March 9, 2007.

PO Luo did not recall this incident, or responding to an 85 on the date and time of the incident. He did not recall any incident in § 87(2)(b). When given a brief synopsis of the incident, he stated that it did not sound familiar. The CCRB presented PO Luo with the arrest photographs of all of the arrests made at § 87(2)(b) on March 9, 2007, and he did not recognize any of the individuals who were arrested.

#### **PO Richard Lavelle and PO Anthony Nieves: Memo books**

On March 9, 2007, PO Richard Lavelle and PO Anthony Nieves were assigned to Sector F and G of the 73<sup>rd</sup> Precinct from 3:00 PM to 11:35 PM. PO Lavelle had no memo book entries between 3:45 PM, when he was assigned a job at § 87(2)(b), and 10:45 PM, when he resumed patrol with a different partner. PO Nieves's memo book indicated that he responded to the job at § 87(2)(b), and had a line of duty injury as of 4:30 PM and was transported to § 87(2)(b) (encls. 77a-b, 78a-b).

#### **Lt. Edward Schneider: Statement to PBBN Investigations Unit**

At 10:04 PM, Lt. Schneider, the platoon commander for the third platoon at the 73<sup>rd</sup> Precinct, was interviewed by Sgt. O'Hare. Lt. Schneider responded to § 87(2)(b) after an officer whose voice he recognized to be that of PO Timothy Schultz called for additional units. It took him approximately seven minutes to respond and when he arrived at the location, everything seemed to be under control. He spoke with Sgt. Rinaldi, who stated that officers had been "jumped" by a group of civilians. Five officers were injured during the process of enacting the arrests at § 87(2)(b) but Lt. Schneider did not provide any further information regarding how the injuries were allegedly received (encl.32a-c).

#### **Captain William J. Tobin: Report to Chief of Department regarding the Arrest of § 87(2)(b)**

On March 9, 2007, Captain Tobin notified the Chief of Patrol that officers from the 73<sup>rd</sup> Precinct had arrested § 87(2)(b), along with five other people, at § 87(2)(b) on that day. § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b) (encl.79a-f).

#### **Medical Records**

§ 87(2)(b)

On § 87(2)(b) at § 87(2)(b), § 87(2)(b) was examined at § 87(2)(b). He stated that he had upper and lower back pain, and pain to the side of his neck. He complained that he was assaulted two days before. He was diagnosed with a muscle strain and directed to take Motrin (encl.80a-i).

§ 87(2)(b)

On § 87(2)(b) at § 87(2)(b), § 87(2)(b) was examined at § 87(2)(b). She complained of right knee pain and lower back pain. She stated that she was assaulted by a police officer two days before. She stated that her left shoulder hurt, and that her pain was improving. She was diagnosed with a lumbar muscle strain and told to take Motrin. There was no swelling noted to her right knee (encl.81a-n).

§ 87(2)(b)

On § 87(2)(b) at § 87(2)(b), § 87(2)(b) was examined at § 87(2)(b). He stated that he was assaulted by police officers. He had multiple bruises to his upper back. He also complained of leg pain and generalized muscle soreness. He was diagnosed with a muscle strain (encl.82a-l).

§ 87(2)(b)

On § 87(2)(b), at § 87(2)(b), § 87(2)(b) was examined at § 87(2)(b). He stated that he was beaten up two days ago. He was diagnosed with bruises and complained of neck and left arm pain (encl.83a-m).

### **Communications Records**

#### **SPRINT and Communications CD**

On March 9, 2007, at 3:52 p.m., a call was made from § 87(2)(b) by a female caller who stated that a § 87(2)(b) child had been left alone in § 87(2)(b) at that location. At 4:10 p.m., Sector E of the 73rd precinct arrived at the location. At 4:13 p.m., a call for additional units was made from that location. The operator asked multiple times for clarification regarding what was happening at the location, but Sector E did not say. Multiple males yelling could be heard at the location. Sector E made another call, saying, "85, 85, 85," and there was more yelling at the location. Sector A, Sector C, the patrol supervisor, Sector F all arrived at the location within five minutes. A lieutenant, GLA, and a sergeant on patrol were also at the location, but did not transmit their arrival.

At 4:17 p.m., a female caller who lived on the second floor stated that she heard a lot of "commotion" at the location, and was advised that the police department was already there.

At 4:27 p.m., ambulances were called to the 73rd precinct for five MOS with minor injuries (encl.84a-h).

### **Police Documents**

#### **Arrest Photos**

The arrest photos taken pursuant to the arrest of § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were unremarkable. None of the § 87(2)(b) or § 87(2)(b) exhibited any visible bruising or lacerations (encl.84a-h).

#### **Command Log**

On March 9, 2007, PO Caballero presented § 87(2)(b) and § 87(2)(b) as arrests at the 73<sup>rd</sup> Precinct at 5:06 PM. They were all transported to Brooklyn Central Booking at 9:40 PM, aside from § 87(2)(b) who was transported separately at

§ 87(2)(b)

and § 87(2)(b)

or § 87(2)(b)

(encl.86a-b).

# 73<sup>rd</sup> Precinct Roll Call

assigned to Sector F and G. POs Schultz and Tiernan were assigned to Sector E, H, and I (encl.87a-ll).

**[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]**

### **Substantiated CCRB Allegations which resulted in the Imposition of Discipline**

has not had any other allegations substantiated against him in his four years of tenure.

4a-b,5).

## Conclusions and Recommendations

### Officer Identification

§ 87(2)(b)

in the lobby of § 87(2)(b)

force against § 87(2)(b)

§ 87(2)(b)

punched and kicked him. He did not see any of the officers who allegedly hit him, and could not describe any officers at § 87(2)(b) aside from PO Schultz and PO Tiernan. The CCRB interviewed all

§ 87(2)(b)

officers who appeared to have responded to § 87(2)(b) and none of those officers

acknowledged using any additional force with § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)

kicking and asps against § 87(2)(b) in § 87(2)(b)

onded to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) stated that an officer punched her in the shoulder, causing her to fall to the ground. She described the officer as tall with dark hair. However, she stated that the only officer whom she would recognize if shown photos would be the female officer with whom she interacted. None of the officers interviewed by the CCRB who responded to § 87(2)(b) acknowledged striking § 87(2)(b).

§ 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that an officer struck him with a baton. He could not describe the officer who allegedly did so, and none of the officers interviewed by the CCRB acknowledged striking § 87(2)(b) with a baton. Furthermore, none of the officers interviewed by the CCRB recognized a photograph of § 87(2)(b) as someone with whom they interacted. § 87(2)(g)

§ 87(2)(b) § 87(2)(g)

§ 87(2)(b) alleged that officers struck him inside § 87(2)(b) and that an officer placed his asp or baton across his throat for an extended period of time, restricting his breathing. § 87(2)(b) further stated that he could not provide any description of any officer with whom he interacted on March 9, 2007, including gender or race, even though he was allegedly face to face with the officer who allegedly placed an asp or baton across his throat. None of the officers interviewed by the CCRB acknowledged striking § 87(2)(b) or performing the alleged action with a baton. Furthermore, none of the officers interviewed by the CCRB recognized a photograph of § 87(2)(b) as someone with whom they interacted. § 87(2)(g)

§ 87(2)(b) alleged that officers struck him with batons while allegedly striking § 87(2)(b) with the same weapons. He could provide no description of the subject officers for this allegation. He also alleged that officers struck him with their hands in § 87(2)(b) and inside the 73<sup>rd</sup> Precinct stationhouse, but could not describe these officers either. None of the officers interviewed by the CCRB acknowledged striking § 87(2)(b). Furthermore, none of the officers interviewed by the CCRB recognized a photograph of § 87(2)(b) as someone with whom they interacted. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Undisputed Facts**

It is undisputed that PO Timothy Schultz and PO Vincent Tiernan used physical force against § 87(2)(b). It is undisputed that Sgt. Brian McMenamin struck § 87(2)(b) with an asp. It is undisputed that PO Delgado used force against § 87(2)(b).

### **Disputed Facts**

§ 87(2)(g)

### **Allegations Not Pleaded**

§ 87(2)(g)

[REDACTED]

**Assessment of the Evidence**

§ 87(2)(g)

[REDACTED]

All of the § 87(2)(b) said that they witnessed § 87(2)(b) open the door of § 87(2)(b) for the officers, and stated that officers began to strike § 87(2)(b) with no apparent impetus.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]



[illegible]

[REDACTED]

§ 87(2)(g)

§ 87(2)(a) Gen.Mun. §50-H(3), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(g)

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g) § 87(2)(a) Gen.Mun. §50-H(3), § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(a) Gen.Mun. §50-H(3)  
§ 87(2)(g)

### Allegations and Analysis

**Allegation A: PO Timothy Schultz used physical force against** § 87(2)(b)

**Allegation B: PO Vincent Tiernan used physical force against** § 87(2)(b)

§ 87(2)(g)  
According to the Scale of Escalating Force used by the NYPD to instruct on appropriate force response, firm grips used to guide people are appropriately used when officers are met with verbal resistance (encl.1). § 87(2)(g)

**Allegation C: Officers used physical force against** § 87(2)(b)

§ 87(2)(g)

**Allegation D: Sgt. Brian McMenamin struck** § 87(2)(b) **with an asp.**

**Allegation E: PO Angel Delgado used physical force against** § 87(2)(b)

§ 87(2)(g)

**Allegation F: Officers used physical force against** § 87(2)(b)

**Allegation G: An officer struck** § 87(2)(b) **with a radio.**

§ 87(2)(g)

**Allegation H: An officer used physical force against** § 87(2)(b)

